

Rudy (Unknown last name)
2321 Red Bud Ave
McAllen, Tx 78501

-Defendant, a Federal Government agency, United States Postal Service maybe served at:

Abran Martinez, Acting USA
Bentsen Tower
1701 West Hwy 83, Suite 600
McAllen, TX 78501
Phone: 956-618-8010
Fax: 956-618-8009

3. JURISDICTION. Federal jurisdiction resides in the district courts of the United States based on citizenship of the parties per 28 U.S.C. §1332 as Plaintiffs are United States resident citizens.

4. VENUE

Venue is proper pursuant to 28 U.S.C. §1441 as this is the federal district court for the district where the incident made the basis of the lawsuit occurred.

5. FACTS

On September 25, 2015 at 08:35 a.m. Plaintiff, MOISES NOLASCO, was lawfully traveling east on Thomas Road on his bicycle nearing the intersection of Encino Road and Thomas Road in Pharr, Hidalgo County, Texas. A United States Postal Service (USPS) vehicle was on Encino Road traveling southbound towards Thomas Road without stopping.

As Plaintiff crossed the intersection, crossing Encino Road, Plaintiff was hit on left side by USPS vehicle driven by an employee, Rudy (unknown last name), of the United States Postal Service in the course and scope of his employment with USPS. Plaintiff was struck on left side by the mirror mounted on the front left of the USPS vehicle while the vehicle was traveling in motion. The effect and force from a heavy vehicle upon a pedestrian caused Plaintiff serious injury.

Plaintiff requested Defendant's driver information and supervisor's number however the Defendant refused to cooperate and only stated his name, Rudy (unknown last name), and would not give any other information, to either Plaintiff or Investigating Pharr Police Officer Adrian Cantu.

Police report confirmed Defendant let go of the brake and struck Plaintiff. Police further classified Defendant's USPS vehicle as a "hit and run".

6. NEGLIGENCE. The collision described above, and the resulting injuries and damages suffered by Plaintiff, were actually and proximately caused by Defendant RUDY (UNKOWN LAST NAME)'s negligence in one or more of the following acts or omissions:

- Driver's inattention;
- Distracted driving;
- Disregarding a stop sign;
- Failing to yield to the right of way to traffic on a public road;
- Failing to maintain control of his vehicle.

- Failing to maintain such a lookout as a person of ordinary prudence would have maintained under the same or similar circumstances;
- Failing to timely and properly apply his brakes prior to the collision; and
- Failing to take proper evasive action to avoid the collision made basis of this claim.

7. **RESPONDEAT SUPERIOR.** Defendant UNITED STATES POSTAL SERVICE owned, leased, or otherwise controlled the vehicle Defendant Rudy (unknown last name) was driving at the time of the collision. At that time, Defendant Rudy (unknown last name) was an employee of UNITED STATES POSTAL SERVICE, and was driving its vehicle in the course and scope of his employment. Defendant UNITED STATES POSTAL SERVICE is liable to Plaintiffs for Defendant Rudy (unknown last name)'s negligence through the doctrine of respondent superior.

Alternatively, Defendant Rudy (unknown last name) was the statutory employee of, UNITED STATES POSTAL SERVICE, notwithstanding traditional common-law doctrines of master-servant or respondeat superior. 49 C.F.R. § 390.5 (defining "employee" and "employer"). UNITED STATES POSTAL SERVICE is vicariously liable, as a matter of law, for Defendant Rudy (unknown last name)'s negligence.

8. PERSONAL INJURY DAMAGES.

As a direct and proximate result of Defendant's acts and omissions, Plaintiff suffered serious personal injury. Plaintiffs' damages exceed the minimum jurisdictional limit of this Court and include:

- past, present, and future medical bills;
- past, present, and future disfigurement, physical pain and mental anguish;
- past, present, and future physical impairment;
- loss of consortium and loss of services;
- lost wages and loss of earning capacity as to Plaintiff Mariana Sanchez.

Plaintiff seek actual damages be awarded to the Jury in the amount over \$1,000,000.00; an amount within jurisdictional limits of this Court.

9. PROPERTY DAMAGES

As a direct and proximate result of Defendants' acts and omissions, Plaintiffs' vehicle suffered property damages that have not been paid.

10. PREJUDGEMENT INTEREST

Plaintiffs seek pre-judgment interest on the past damages found by the Trier of fact.

11. CONDITIONS PRECEDENT

A claim was filed under FICA on February 1, 2017. Defendant has failed to respond to said claim, requiring plaintiff to file suit.

12. JURY DEMAND

Plaintiffs demand a trial by jury, and have tendered the jury fee.

P R A Y E R

WHEREFORE, Plaintiff, MOISES NOLASCO pray that, on final trial, Plaintiff has:

1. Judgment against defendants for damages in a sum in excess of \$1,000,000.00;
2. Pre-judgment interest;
3. Post-judgment interest;
4. Costs of suit; and
5. All such other relief, at law or at equity, to which Plaintiffs may show themselves to be entitled.

Respectfully submitted,

LAW OFFICES OF EZEQUIEL REYNA, JR., P.C.

/s/Damon C. Garcia

Damon C. Garcia

State Bar No. 24072105

Federal Bar No. 1402920

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ATTORNEYS FOR PLAINTIFFS

CERTIFICATE OF SERVICE

I certify that these requests were forwarded to the process server engaged to serve the Defendant Rudy (unknown last name), UNITED STATES POSTAL SERVICE with Plaintiff's Original Petition with instructions to serve the requests on the Defendant at the time of service of Plaintiffs' Original Petition.

//s//Damon C. Garcia

Damon C. Garcia